IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Bail Appl..No. 5503 of 2007()

CRIME NO. 102/06 OF MANJESHWAR POLICE STATION

PETITIONERS/ACCUSED

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1. JAMEELA,W/O,HEEYAKA HAJI,
   DUEAMS HOUSE,ANCHIKATTA, MANJESHWAR,
   MANJESHWAR,

2. FATHIMA,W/O. ASHRAFI,DUEAMS HOUSE
   ANCHIKATTA, MANJESHWAR, MANJESHWAR,

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA,REP BY
SHO MANJESHWAR POLICE STATION,
REP. BY PUBLIC PROSECUTOR,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5503 of 2007

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Dated this the 18th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 3 and 4 in a crime registered, inter alia, under Section 365 I.P.C. The crux of the allegations against the petitioners is that they, along with accused 1 and 2, had indulged in the culpable conduct of threatening, intimidating and abducting the defacto complainant in an attempt to compel him to part with money. The petitioners are mother and daughter. The petitioner/daughter had a son, to whom tuition was being given by the defacto complaint. Raising the false allegation against the defacto complainant that he had sexual intimacy with the maid servant in the house, all the accused persons attempted to extract money from the defacto complainant. This is the crux of the allegations against the petitioners.

2. The learned counsel for the petitioners submits that in the F.I. statement lodged long after the occurrence - after the defacto complainant had sufficient time to reflect and decide on the course of action, no specific allegation whatsoever has been raised against the

petitioners - women. Subsequently allegations have been raised to rope in the petitioners also. Such allegations deserve to be approached with considerable amount of care and caution. The petitioners are respectable women leading a disciplined life. They may not be vexed and harassed by infliction of such trauma of undeserved arrest. The petitioners are willing to abide by any conditions and co-operate with the Investigators. They may be saved from the ordeal of arrest and incarceration, submits the learned counsel.

3. The learned Prosecutor opposes the application. The learned Prosecutor submits that while it is true that no allegations specifically have been raised against the petitioners in the F.I. statement lodged by the defacto complainant, in the course of subsequent investigation the defacto complainant has made a clean breast of the various events that had taken place and the complicity of the petitioners. Merely because of the omission in the F.I. statement this court may not invoke the discretion under Section 438 Cr.P.C., submits the learned Prosecutor.

4. I have considered all the relevant inputs. In the nature of the serious contentions raised, it was requested that the case diary be placed before me for my perusal. I have perused the case diary. Having

considered all the relevant inputs, I am persuaded to agree with the learned counsel that the petitioners, women, can be granted anticipatory bail. The totality of circumstances have been taken into consideration by me. I do take note of the admitted fact that no allegations against the petitioners are raised at the initial stages. That may lead to no final conclusion about the guilt of the petitioners. But I am satisfied that, subject to appropriate conditions, the petitioners can be granted anticipatory bail.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 25.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 26.9.07 and 27.9.2007 and 28.9.2007 and thereafter they shall appear on all Wednesdays and Saturdays between 10 a.m. and 12 noon for a period of

two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 25.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 25.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 25.9.2007.

(R. BASANT)
Judge

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